

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MAURICE DAVIS,

Petitioner,

vs.

JAMES A. YATES,

Respondent.

No. C 11-0230 WHA (PR)

**ORDER OF DISMISSAL;  
GRANTING LEAVE TO PROCEED  
IN FORMA PAUPERIS**

(Docket No. 2)

Petitioner, a state prisoner currently proceeding pro se, has filed a second or successive petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254. This petition challenges the same state court conviction as his prior petition, which was dismissed as untimely. *See Davis v. Cambra*, No. C 00-1430 MHP (PR) (N.D.Cal. Jan. 18, 2001). A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this Court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the Ninth Circuit. The petition is accordingly **DISMISSED** without prejudice to refiling if petitioner obtains the necessary order. The application for leave to proceed in forma pauperis (docket number 2) is **GRANTED**.

The clerk shall enter judgment and close the file.

**IT IS SO ORDERED.**

Dated: February 14, 2011.

  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE